

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN D. CERQUEIRA,

Plaintiff,

v.

AMERICAN AIRLINES, INC.,

Defendant.

Civil Action No: 05-11652-WGY

**SUPPLEMENTAL DECLARATION OF DAVID S. GODKIN IN SUPPORT OF
PLAINTIFF'S MOTION FOR ATTORNEYS' FEES AND COSTS**

I, David S. Godkin, depose and state the following:

1. I am a partner with the law firm Birnbaum & Godkin, LLP, 280 Summer Street, Boston, Massachusetts 02210. Birnbaum & Godkin, LLP and the Public Citizen Litigation Group are co-counsel for the plaintiff, John D. Cerqueira, in this case.
2. On January 30, 2007, Mr. Cerqueira filed a motion for attorneys' fees and costs. Doc. 111. That motion sought fees and costs through the last day of the trial. I submit this Affidavit in support of Mr. Cerqueira's Supplemental Motion for Attorneys' Fees and Costs, in which Mr. Cerqueira requests fees and costs from the conclusion of the trial on January 12, 2007 through February, 2007.
3. Since the conclusion of trial, Birnbaum & Godkin, LLP has devoted 128.25 attorney and paralegal hours to this case. A detailed description of the hours claimed by Birnbaum & Godkin, LLP is attached to this Affidavit as Exhibit A. All of the entries on Exhibit A were contemporaneously recorded and copied from the actual time records generated by the timekeeping software used by Birnbaum & Godkin, LLP. As shown on Exhibit A, these hours

were devoted to work related to preparing Mr. Cerqueira's fee petition and supporting documents, responding to defendant's renewed motion for JNOV, and responding to defendant's motion for a new trial or for remittitur.

4. The actual billing records are not submitted herewith because I have exercised billing judgment and am seeking fees for less than all of the hours spent. I have only included time that was absolutely necessary to the case, and have eliminated duplication.

SUMMARY OF HOURS CLAIMED

5. The following chart summarizes the hours claimed by the Plaintiff for this case, through the end of February, 2007:

<u>Individual</u>	<u>Requested Hours</u>
Michael T. Kirkpatrick	889.55
David S. Godkin	384
Darleen Cantelo	314.25
Erica Abate Recht	200
David Becker	42.50
Jessica Edgerton	41
G. Brian Vogler	21.50
Dawn Perlman	15
Kimberly Nuzum	6.5
Philip Longo	6
Adina Rosenbaum	4.8
Allison Zieve	2.8
Brian Wolfman	5.6
TOTAL	1933.5

COSTS

6. In addition to taxable costs, the plaintiff has sought an award of costs for expert witnesses fees, travel, computerized legal research (Westlaw), courier, postage, fax, and FedEx. These non-taxable recoverable costs, through December 31, 2006 were itemized in my

Declaration filed on January 30, 2007 (Doc. 113). I have set forth below an updated summary of non-taxable recoverable costs through February 28, 2007:

Expert witness fees	\$11,192.23 ¹
Travel	5,936.39 ²
Computerized research (Westlaw)	2,955.71
Courier	327.28
FedEx	47.24
Postage	42.71
Fax	<u>16.00</u>
TOTAL	<u>\$20,517.56</u>

Signed under penalties of perjury this 1st day of March, 2007.

/s/ David S. Godkin
David S. Godkin

¹ This amount includes \$2,445 charged by Dr. Faulk for his time spent in connection with his deposition for use at trial, \$1,200 charged by Dr. Blumenthal for his time spent in connection with his deposition for use at trial, and \$7,547.23 charged by Mr. Douglas Laird, Plaintiff's expert witness on security issues.

² This amount includes my travel expenses to Ft. Lauderdale in connection with the depositions of Dr. Blumenthal and Faulk for use at trial, and Mr. Kirkpatrick's travel expenses to Reno for Mr. Laird's deposition, and to Boston for Mr. Cerqueira's deposition, a mediation with Magistrate Judge Dein, the hearing on summary judgment motions, the Final Pretrial Conference, Trial, and the hearing on defendant's motions for JNOV and for a new trial/remittitur.

EXHIBIT A

**BIRNBAUM & GODKIN LLP
SUPPLEMENTAL FEE CHART**

Page 1

Date	Description	Hours	Rate	Total	Lawyer
Jan 16/2007	Review judgment; FRCP re: attorneys fees motion; calls re: affidavits for attorneys' fees; review Bill of Costs provisions	1.50	390.00	585.00	Godkin, David S.
Jan 17/2007	Draft attorneys' fees memorandum	0.75	150.00	112.50	Cantelo, Darleen F.
Jan 17/2007	Attorney's fees motion; review of time records; telephone call from H. Friedman.	3.25	390.00	1267.50	Godkin, David S.
Jan 18/2007	Research re: enhancement of Iodestar figure	6.00	150.00	900.00	Cantelo, Darleen F.
Jan 18/2007	Review FRCP re: post trial motions, execution, stay, bond requirements, etc.; draft Affidavit in Support of fee application.	3.50	390.00	1365.00	Godkin, David S.
Jan 19/2007	Draft attorneys' fees memorandum	1.00	150.00	150.00	Cantelo, Darleen F.
Jan 19/2007	Review case law re: taxable costs; prepare Affidavit in support of Attorneys' Fees motion; review American Airlines JMOL motion	2.50	390.00	975.00	Godkin, David S.
Jan 19/2007	Work related to Fee Petition.	5.00	100.00	500.00	Vogler, G. Brian
Jan 22/2007	Memorandum re: attorneys' fees	6.00	150.00	900.00	Cantelo, Darleen F.
Jan 22/2007	Email M.Fitzhugh re: post-trial motions, motion to extend time, review and comment on draft motion; attention to Bill of Costs	1.50	390.00	585.00	Godkin, David S.
Jan 22/2007	Work related to Fee Petition.	1.00	100.00	100.00	Vogler, G. Brian
Jan 23/2007	Memorandum re: attorney's fees; research re: reasonable attorney's fees awards.	4.00	150.00	600.00	Cantelo, Darleen F.
Jan 23/2007	Telephone to M.Kirkpatrick re: fee petition; Bills of Costs; Fee Affidavits; telephone to H.Friedman	4.50	390.00	1755.00	Godkin, David S.
Jan 24/2007	Memorandum re: attorney's fees; research re: reasonable attorney's fees awards.	4.00	150.00	600.00	Cantelo, Darleen F.
Jan 24/2007	Attention to Bill of Costs, Fee Affidavits; review and revise PC LG affidavits; J.Savage, S.Lewis, H.Friedman affidavits	3.00	390.00	1170.00	Godkin, David S.
Jan 25/2007	Memorandum re: attorney's fees; research re: reasonable attorney's fees awards; research re: state enhancement law.	4.00	150.00	600.00	Cantelo, Darleen F.
Jan 25/2007	Draft and revise Memorandum in Support of Motion for Attorneys' Fees and Costs; review pertinent case law	3.00	390.00	1170.00	Godkin, David S.
Jan 26/2007	Edits to memorandum for attorney's fees; research re costs under s. 1988 and s. 1920.	3.00	150.00	450.00	Cantelo, Darleen F.
Jan 26/2007	Revise memo in support of attorney's fees motion; review Judge Zobel Sarsfield decision.	2.25	390.00	877.50	Godkin, David S.
Jan 28/2007	Edit fee memorandum; miscellaneous work re: filing.	6.00	150.00	900.00	Cantelo, Darleen F.
Jan 29/2007	Review memo in support of motion for attorney's fees; affidavit in support, Bill of Costs, supporting documentation.	5.25	390.00	2047.50	Godkin, David S.
Jan 30/2007	Read American Airlines' Motion for JNOV and Motion for New Trial.	1.75	150.00	262.50	Cantelo, Darleen F.
Jan 30/2007	Review American Airlines post-trial motions; finalize attorney's fees motion and supporting papers, and Bill of Costs and supporting papers.	3.25	390.00	1267.50	Godkin, David S.
Jan 31/2007	Call with DSG and M. Kirkpatrick re: American Airline's post-trial motions.	0.25	150.00	37.50	Cantelo, Darleen F.
Jan 31/2007	Conference call with M. Kirkpatrick and DFC re: oppositions to post-trial motions.	0.75	390.00	292.50	Godkin, David S.

Case 1:05-cv-11652-WGY

Document 142-2

Filed 03/02/2007

Page 2 of 4

**BIRNBAUM & GODKIN LLP
SUPPLEMENTAL FEE CHART**

Page 2

Date	Description	Hours	Rate	Total	Lawyer
Feb 1/2007	Review FRCP re: writ of execution, automatic stay.	0.50	390.00	195.00	Godkin, David S.
Feb 2/2007	Post-trial motions.	1.50	390.00	585.00	Godkin, David S.
Feb 5/2007	Review order re: briefing schedule, argument; work on oppositions to post trial motions	1.00	390.00	390.00	Godkin, David S.
Feb 6/2007	Review trial transcript excerpts re: AA post trial motions and oppositions; work on opposition briefs.	3.00	390.00	1170.00	Godkin, David S.
Feb 7/2007	Post trial motions.	2.00	390.00	780.00	Godkin, David S.
Feb 8/2007	Opposition to post trial motions.	2.00	390.00	780.00	Godkin, David S.
Feb 9/2007	Research re: standard of review for judgment as matter of law; waiver of objection to jury instruction; presumption that jury followed instructions.	4.00	150.00	600.00	Cantelo, Darleen F.
Feb 9/2007	New trial motion opposition; review AA brief, revise inserts for opposition brief.	1.75	390.00	682.50	Godkin, David S.
Feb 12/2007	Research re: remittitur and motion for new trial; review of opposition to R. 59 (335).	2.00	150.00	300.00	Cantelo, Darleen F.
Feb 12/2007	Oppositions to JMOL and new trial motions; review and revise draft briefs; review AA opposition to motion for attorney's fees and costs.	1.50	390.00	585.00	Godkin, David S.
Feb 13/2007	Final review of opposition to renewed JMOL and new trial motions; email comments to M. Kirkpatrick.	1.25	390.00	487.50	Godkin, David S.
Feb 14/2007	Reply brief re: attorney's fees.	2.50	390.00	975.00	Godkin, David S.
Feb 15/2007	Draft reply brief re: attorney's fee motion.	3.00	390.00	1170.00	Godkin, David S.
Feb 16/2007	Miscellaneous work re: reply brief in support of motion for attorney's fees.	2.00	150.00	300.00	Cantelo, Darleen F.
Feb 16/2007	Reply brief re: fees; review case law cited by AA.	1.00	390.00	390.00	Godkin, David S.
Feb 20/2007	Editing reply brief and preparing for e-filing; two calls with M. Wangeheim re: rule 7.1 conference; reading AA's reply brief re: JNOV and new trial.	2.75	150.00	412.50	Cantelo, Darleen F.
Feb 20/2007	Reply brief re: fees; motion for leave to reply; review AA reply brief re: post trial motions.	0.75	390.00	292.50	Godkin, David S.
Feb 21/2007	Filing reply brief after leave to file granted	0.50	150.00	75.00	Cantelo, Darleen F.
Feb 23/2007	Review Philip Morris v. Williams decision re: punitive damages	1.00	390.00	390.00	Godkin, David S.
Feb 26/2007	Prepare for hearing on motions; review AA supplemental motion for JNOV and supporting memo	1.50	390.00	585.00	Godkin, David S.
Feb 27/2007	Prepare for and attend hearing on post trial motions	4.25	390.00	1657.50	Godkin, David S.
Feb 28/2007	Supplemental Attorneys' fees motion; research entitlement to fees for post trial motions and fee petition	8.00	150.00	1200.00	Cantelo, Darleen F.
Feb 28/2007	Supplemental Attorneys' fees motion, affidavits; amended bill of costs and affidavit.	3.50	390.00	1365.00	Godkin, David S.
	TOTAL:	128.25		\$34,837.50	

Page 3 of 4

BIRNBAUM & GODKIN LLP
SUPPLEMENTAL FEE CHART SUMMARY

	Hours	Rate	Amount
David S. Godkin	66.25	390.00	\$25,837.50
Darleen F. Cantelo	56.00	150.00	\$8,400.00
G. Brian Vogler	6.00	100.00	\$600.00
			\$34,837.50